

ADMINISTRATIVE ORDER  
NO. 2012-06-01

IN THE CIRCUIT COURT OF THE  
NINTH JUDICIAL CIRCUIT, IN AND  
FOR ORANGE COUNTY, FLORIDA

**AMENDED ADMINISTRATIVE ORDER GOVERNING RESIDENTIAL FORECLOSURE  
MEDIATION PROCEDURES, ORANGE COUNTY**

**WHEREAS**, pursuant to Article V, section 2(d) of the Florida Constitution, and section 43.26, Florida Statutes, the Chief Judge of each judicial circuit is charged with the authority and power to do everything necessary to promote the prompt and efficient administration of justice, and rule 2.215(b)(3), Florida Rules of Judicial Administration, mandates the Chief Judge to “develop an administrative plan for the efficient and proper administration of all courts within the circuit;” and

**WHEREAS**, rule 2.545 of the Rules of Judicial Administration requires that the trial courts “...take charge of all cases at an early stage in the litigation and...control the progress of the case thereafter until the case is determined...”, which includes “...identifying cases subject to alternative dispute resolution processes;” and

**WHEREAS**, a statewide managed mediation program for residential mortgage foreclosure cases was established in 2009 by In re: Final Report and Recommendations on Residential Mortgage Foreclosure Cases, AOSC09-54, (Dec. 28, 2009); and

**WHEREAS**, program requirements were clarified in 2010 by In re: Guidance Concerning Managed Mediation Programs for Residential Mortgage Foreclosure Cases, AOSC10-57, (Nov. 5, 2010); and

**WHEREAS**, the Supreme Court of Florida has reviewed the reports on the program and determined it cannot justify continuation of the program; and

**WHEREAS**, pursuant to In re: Managed Mediation Program for Residential Mortgage Foreclosure Cases, AOSC11-44, (Dec. 19, 2011), the statewide managed mediation program was terminated upon issuance of said Order; and

**WHEREAS**, in order to address the immediate effective date of Administrative Order AOSC11-44, the Court issued Administrative Order 2012-02 on January 20, 2012. That

Administrative Order terminated the managed residential foreclosure mediation program and provided that a further order on mediation foreclosure cases would be forthcoming after the Court considered all possible options and measures the Court deems necessary and appropriate. Administrative Order 2012-02 also provided that parties could continue to file a Motion to Participate in Circuit Civil Mediation in accordance with section 44.102, Florida Statutes, and Florida Rules of Civil Procedure 1.700-1.730 and nothing in that Order prohibits judges from referring residential mortgage foreclosure cases to mediation on a case-by-case basis; and

**WHEREAS**, residential mortgage foreclosure case filings have increased substantially in recent years and the backlog of pending mortgage foreclosure cases in the Ninth Circuit is significant. Mediation is an alternative means of resolving disputes and can be helpful in resolving mortgage foreclosure cases. It provides a forum for the parties to resolve their own dispute. Resolving mortgage foreclosure cases through mediation can help to prevent more serious increases in the backlog of cases and is consistent with the Court's responsibility to take charge of cases at an early stage of the litigation. Mediation also provides a more efficient use of limited judicial resources in an overburdened court system and state and county budget constraints have limited the ability of the courts in the Ninth Judicial Circuit to manage these cases in a timely manner; and

**WHEREAS**, Chapter 44, Florida Statutes, and rules 1.700-1.750, Florida Rules of Civil Procedure, provide a framework for court-ordered mediation of civil actions, except those matters expressly excluded by rule 1.710(b), which does not exclude residential mortgage foreclosure actions; and

**WHEREAS**, the Orange County Bar Association is an independent, not for profit corporation that was selected as the Foreclosure Program Manager for the Ninth Judicial Circuit's managed mediation program required by Supreme Court Administrative Order AOSC09-54. That

selection was made after thorough and diligent consideration of all factors involved. The Orange County Bar Association has proven experience with the Court, has demonstrated expertise with a managed mediation program, and has effectively managed a large number of mediation referrals. The exchange of information between the Plaintiff/Lender and Defendant/Borrower is an important prerequisite to successful mediation of a mortgage foreclosure case.

The process that was developed by the Orange County Bar Association to allow for exchange of information between the Plaintiff/Lender and Defendant/Borrower is critical to the success of a managed mediation program. Because of the Orange County Bar Association's proven capabilities and expertise, the continued availability of its services, and the compatibility of existing services with the program manager services provided for in this Order, the Court is continuing with the Orange County Bar Association to assist in the processing of mortgage foreclosure cases that are referred to mediation; and

**WHEREAS**, this Court hosted a summit in which Lenders, Plaintiff attorney firms, consumer advocate representatives and other interested parties discussed the benefits and concerns of a managed foreclosure mediation program. Positive and constructive feedback was received and has been considered by this Court in formulating a local managed foreclosure mediation program; and

**WHEREAS**, mediation of certain homestead residential mortgage foreclosure actions **prior to the matter being set for final hearing** will facilitate the laudable goals of communication, facilitation, problem-solving between the parties with the emphasis on self-determination, the parties' needs and interests, procedural flexibility, full disclosure, fairness, and confidentiality. Referring these cases to mediation will also facilitate and provide a more efficient use of limited judicial and clerk resources in a court system that is already overburdened;

**NOW, THEREFORE, I**, Frederick J. Lauten, pursuant to the authority vested in me as Chief Judge of the Ninth Judicial Circuit of Florida under Florida Rule of Judicial Administration 2.215, order the following, **effective immediately**, unless otherwise stated herein, and to continue until further order:

## **Effective Date**

1. This Administrative Order shall apply to all residential homestead foreclosure cases filed beginning 12:01 a.m. on April 23, 2012, until further notice from the Chief Judge.

Certain other foreclosure cases may be referred to mediation as contemplated by this Administrative Order, at the discretion of the presiding judge as specified in paragraph 2 below.

## **Scope**

2. ***Residential Mortgage Foreclosures.*** This Administrative Order shall apply to all residential mortgage foreclosure actions filed in Orange County in which the origination of the note and mortgage sued upon was subject to the provisions of the Federal Truth in Lending Act, Regulation Z. However, compliance with this Order varies depending on whether the property secured by the mortgage is a homestead residence.

**The parties to the foreclosure action shall comply with the conditions and requirements imposed by this Order. If the foreclosure action is a mandatory referral to the Residential Mortgage Foreclosure Mediation Program pursuant to this Order, it is not necessary to file a Request for Mediation with the court.**

Upon the effective date of this Order, as specified in paragraph 1, **all newly filed** mortgage foreclosure actions filed against a homestead residence shall be referred to the Orange County Residential Mortgage Foreclosure Mediation (RMFM) Program unless the plaintiff and borrower agree in writing otherwise.

In actions to foreclose a mortgage on a homestead residence, the plaintiff and borrower **shall attend at least one mediation session**, unless:

- (a) the plaintiff and borrower agree in writing not to participate in the RMFM Program; or
- (b) the Program Manager files a Notice of Borrower Non-Participation.

Upon the original effective date of this Order, **all newly filed** residential mortgage foreclosure actions involving property that is not a homestead residence shall comply with the requirements of filing a Form A as required by paragraph 6 below.

**At the discretion of the presiding judge**, compliance with this Order may also be required:

- (a) for homestead residential mortgage foreclosure actions filed prior to the effective date of this Order, including those actions filed during the period of time between the cessation of the prior residential foreclosure mediation program and the effective date of this Order;
- (b) for foreclosure actions involving non-homestead residences; and
- (c) any other residential foreclosure action the presiding judge deems appropriate.

A party requesting that the case be sent to mediation with the RMFM Program at the discretion of the presiding judge shall make the request in the format of Exhibit 3 attached.

The following cases will automatically be removed from participating in the RMFM Program by the Program Manager:

- (a) cases where there is no living borrower to mediate;
- (b) cases where mail from Program Manager is returned indicating the property is vacant or mail is undeliverable;
- (c) cases where the borrower has an automatic stay with the Bankruptcy Court; and
- (d) cases where at least one note holder does not agree to participate in mediation.

When a case is deemed ineligible for mediation due to one of the above specified reasons, the Program Manager shall file a Notice of Non-Participation with the Court and serve copies of

such Notice to all parties. The Notice of Non-Participation will indicate the reason that the case is being removed from the RMFM Program.

If the plaintiff certifies in Form A that the property is **NOT** a homestead residence, the matter may proceed to a final hearing, summary judgment, or default final judgment in accordance with the rules of civil procedure without any further requirement to attend mediation, unless otherwise ordered by the presiding judge.

**3. Referral to Mediation.** This Order constitutes a formal referral to mediation pursuant to the Florida Rules of Civil Procedure in actions involving a mortgage foreclosure of a homestead residence. The plaintiff and borrower are deemed to have stipulated to mediation by a mediator assigned by the Program Manager unless pursuant to rule 1.720(f), Florida Rules of Civil Procedure, the plaintiff and borrower file a written stipulation choosing not to participate in the RMFM Program. Referral to the RMFM Program is for administration and management of the mediation process and assignment of a Florida Supreme Court certified circuit civil mediator who has been trained in mediating residential mortgage foreclosure actions and who has agreed to be on the panel of available certified circuit civil mediators. Mediation through the RMFM Program shall be conducted in accordance with Florida Rules of Civil Procedure and Florida Rules for Certified and Court-Appointed Mediators.

**4. Compliance Prior to Judgment.** The parties must comply with this Order and the mediation process must be completed *before* the plaintiff applies for default judgment, a summary judgment hearing, or a final hearing in an action to foreclose a mortgage on a homestead residence unless a Notice of Non-Participation is filed by the Program Manager.

**5. Delivery of Notice of RMFM Program with Summons.** After the effective date of this Order, in all actions to foreclose a mortgage on residential property the plaintiff shall attach

to the summons to be served on each defendant a notice regarding managed mediation for homestead residences in the format of Exhibit 2, in both English and Spanish, attached.

The clerk of court shall provide a daily list of each homestead foreclosure filing, with the case number, to the Program Manager.

### **Procedure**

**6. *Responsibilities of Plaintiff's Counsel.*** When suit is filed, counsel for the plaintiff must file a completed Form A with the clerk of court. If the property is a homestead residence, all certifications in Form A must be filled out completely. Within one (1) business day after Form A is filed with the clerk of court, counsel for plaintiff shall also electronically transmit a copy of Form A to the Program Manager and enter all requested case information, including contact information for all note holders into the Program's IT platform. The contact information must include at a minimum the last known mailing address and phone number for each note holder.

**Within five (5) days after Form A is filed with the clerk of court, counsel for the plaintiff shall send a check or money order made payable to the Orange County Bar Association, 880 North Orange Avenue, Orlando, Florida 32801 in the amount of \$100.00. PLAINTIFF SHALL ATTACH A PHOTOCOPY OF FORM A TO THE CHECK. The check must match the information provided on Form A and the court case number must be included on the check. NO PERSONAL CHECKS WILL BE ACCEPTED.**

**Counsel for the plaintiff shall also send borrower, at borrower's last known mailing address, a copy of the complaint, a copy of the summons and a copy of Exhibit 2 of this Order, Notice of RMFM Program to be Served with Summons, in both English and Spanish, via U.S. Mail within forty-eight (48) hours of filing the complaint.**

As different payment options become available, the Program Manager may change payment acceptance terms without the necessity of amending this Administrative Order.

In Form A, plaintiff's counsel must affirmatively certify whether the origination of the note and mortgage sued upon was subject to the provisions of the Federal Truth in Lending Act, Regulation Z. In Form A, plaintiff's counsel must also affirmatively certify whether the property is a homestead residence. Plaintiff's counsel is not permitted to respond to the certification with "unknown," "unsure," "not applicable," or similar nonresponsive statements.

Plaintiff's counsel may designate more than one plaintiff's representative. At least one of the plaintiff's representatives designated in Form A must attend any mediation session scheduled pursuant to this Order.

Form A may be amended to change the designated plaintiff's representative, and the amended Form A must be filed with the court no later than five (5) days prior to the mediation session. All amended Forms A must be electronically transmitted to the Program Manager via a secure dedicated e-mail address or on the web-enabled information platform described in paragraph 8 no later than one (1) business day after being filed with the clerk of court.

Within five (5) business days of the complaint filing date, or date of the court order referring the case to the RMFM Program, (see Exhibit 7),<sup>1</sup> the plaintiff must upload the Form A, upload the borrower's contact information and pay the Program Manager the \$100.00 payment. If the plaintiff fails to comply with this deadline, they will incur a \$50.00 penalty fee. If within ten (10) business days of the complaint filing date, or date of the Court Order Referring Case to the RMFM Program, the case is still not in compliance and the penalty fee has not been paid, the Program Manager may submit a proposed Order to Show Cause to the Court.

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<sup>1</sup> Cases that are initiated by referral to the Program by Court Order will follow the same timeline as cases subject to mandatory referral to this Program pursuant to this Administrative Order.

In the event of plaintiff non-compliance, the timeline shall begin from the date of plaintiff's full compliance. Full compliance shall consist of: completed Form A, payment of fees, court/clerk case number and contact information as specified in paragraph 6 of this Order.

**7. Responsibilities of Borrower.** Upon the Program Manager receiving the Form A copy, the \$100.00 payment and plaintiff counsel has uploaded all required information for the case to the program software, the Program Manager shall begin efforts to contact the borrower to explain the RMFM Program to the borrower and the requirements that the borrower must comply with to obtain a mediation. The Program Manager shall also ascertain whether the borrower wants to participate in the RMFM Program.

**The borrower must do the following prior to mediation being scheduled:**

- (a) pay the Program Manager \$250.00 for Mediation Program Fees within the forty (40) day borrower contact period; and
- (b) provide to the Program Manager the List of Borrower Documents requested by plaintiff's counsel within fifty-five (55) days from the date eligible; and
- (c) schedule mediation with the Program Manager within fifty-five (55) days from the date eligible<sup>2</sup>.

The List of Borrower Documents crafted for each individual case needed for scheduling mediation will be provided to the Program Manager by counsel for plaintiff. The plaintiff creates the List of Borrower Documents needed for mediation for each individual case based upon whatever workout option the parties are pursuing. When the Program Manager receives all of the documents on the List from borrower, the Program Manager shall transmit the documents

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<sup>2</sup> Date Eligible is the date that the Program Manager is in receipt of the following: plaintiff's counsel has uploaded Form A to the web-enabled program platform, plaintiff's counsel has uploaded borrower contact information including property address, phone number and email (if available) for all note holders, and full payment of \$100.00 for program fees by plaintiff.

to counsel for plaintiff via e-mail or upload the same to the web-enabled information platform. The deadline for scheduling mediation is tolled by any additional days it may take for plaintiff counsel to provide the List of Borrower Documents requested by the plaintiff and payment of the \$150.00 fee by the plaintiff to the Program Manager. The Program Manager is not responsible or liable for the accuracy of borrower's financial information.

**8. *Information to be Provided on Web-Enabled Information Platform.*** All information to be provided to the Program Manager to advance the mediation process, such as Form A, List of Borrower's Documents, as well as the case number of the action and contact information for the note holders, should be submitted via a secure dedicated e-mail address or in a web-enabled information platform with XML data elements. Please refer to the Orange County Bar Association's website for further information. <http://www.orangecountybar.org>.

**9. *Non-participation by Borrower.*** If the borrower does not want participate in the RMFM Program, or if the borrower fails or refuses to cooperate with the Program Manager, or if the Program Manager is unable to contact the borrower, or the case is a matter subject to removal for one of the stated ineligibility categories described fully in Paragraph 2, the Program Manager shall file a Notice of Non-Participation in the format of Exhibit 4 attached. The Notice of Non-Participation shall be filed after the forty (40) day borrower contact period has expired, or as soon as the Program Manager has been notified that borrower affirmatively opts out of the RMFM Program, or as soon as possible when a case has been deemed ineligible for the RMFM Program due to meeting one of the stated ineligibility categories described in Paragraph 2. A copy of the Notice of Non-Participation shall be served on the parties by the Program Manager.

**10. *Encouragement to Seek Foreclosure Counseling.*** The Program Manager shall be responsible for encouraging the borrower to seek foreclosure counseling prior to scheduling mediation.

**11. Referrals for Legal Representation.** In actions referred to the RMFM Program, the Program Manager shall advise any borrower who is not represented by an attorney that the borrower has the right to consult with an attorney at any time during the mediation process and the right to bring an attorney to the mediation session. The Program Manager shall also advise the borrower that the borrower may apply for a volunteer pro bono attorney in programs run by lawyer referral, legal services, and legal aid programs as may exist within this Circuit.

If the borrower applies to one of those agencies and is coupled with a legal services attorney or a volunteer pro bono attorney, the attorney shall file a notice of appearance with the clerk of the court and provide a copy to the attorney for the plaintiff and the Program Manager. The appearance may be limited to representation only to assist the borrower with mediation but, if a borrower secures the services of an attorney, counsel of record must attend the mediation. If any borrower retains a private attorney, the attorney must file a notice of appearance and provide the Program Manager with a copy of such notice of appearance as the Program Manager is not a party to the case and does not automatically receive such notifications otherwise.

**12. Scheduling Mediation.** The plaintiff's representative, plaintiff's counsel, and the borrower are all required to comply with the time limitations imposed by this Order and attend a mediation session as scheduled by the Program Manager.

Within fifty-five (55) days after suit is filed, the Program Manager shall schedule a mediation session.

The mediation session shall be scheduled for a date and time convenient to the plaintiff's representative, the borrower, and counsel for the plaintiff and the borrower, using a mediator from the panel of Florida Supreme Court certified circuit civil mediators who have been specially trained to mediate residential mortgage foreclosure disputes. Mediation sessions will be held at a suitable location(s) within this Circuit obtained by the Program Manager for

mediation. Mediation shall be completed within the time requirements established by rule 1.710(a), Florida Rules of Civil Procedure.

Once the date, time, and place of the mediation session have been scheduled by the Program Manager, the Program Manager shall promptly file with the clerk of court and serve on all parties a Notice of Mediation.

Absent good cause, as determined by the court, mediation must be completed within one hundred (100) days after suit is filed. If mediation fails to be completed within 100 days after suit is filed, and the court makes a determination that such failure is attributable to either party, and that party is unable to show good cause as to why mediation could not be completed within the specified time frame, the court may dismiss the action without prejudice, or impose such other sanctions as the court deems appropriate.

**13. Attendance at Mediation.** The following persons are required to be physically present at the mediation session: (a) the borrower; (b) the borrower's counsel of record, if any; (c) the plaintiff's lawyer; and (d) the plaintiff's representative with full authority to settle as designated in the most recently filed Form A. Full authority to settle shall include the ability to negotiate and agree to both retention and disposition options, which shall include but is not limited to: authority to approve loan modifications; consent to borrower refinancing; reduction of principal; short sale; deed-in-lieu of foreclosure; consent to judgment; and consent to other workout options.

However, the plaintiff's representative may appear at mediation through the use of communication equipment, if plaintiff files and serves at least five (5) days prior to the mediation a notice in the format of Exhibit 5 attached advising that the plaintiff's representative will be attending through the use of communication equipment and designating the person who has full

authority to sign any settlement agreement reached. Plaintiff's counsel may be designated as the person with full authority to sign the settlement agreement.

At the time that the mediation is scheduled to physically commence, but prior to the commencement of the mediation conference, and prior to any discussion of the case in the presence of the mediator, the Program Manager or designee shall take a written roll consisting of the signature and printed name of each party present. That written roll is a determination of the presence of: (a) the borrower; (b) the borrower's counsel of record, if any; (c) the plaintiff's lawyer; and (d) the plaintiff's representative with full authority to settle.

Determination of plaintiff's representative's full authority to settle shall be verified through completion of a certificate affirming said representative has full authority to settle. The Program Manager shall provide a Certificate of Authority document at the mediation for execution by plaintiff counsel in consultation with the lender representative appearing via phone or in person in the format of Exhibit 8 attached.

If either the plaintiff's counsel acting on behalf of plaintiff's representative appearing via phone or plaintiff's representative appearing in person cannot sign the Certificate of Authority document ensuring that the plaintiff representative has: (1) full settlement authority to negotiate a settlement with the borrower(s) without further consultation, and (2) has fully reviewed all documents provided by Program Manager for the case to the plaintiff's legal counsel then Program Manager must not allow the mediation to begin and reschedule the mediation at plaintiff's expense in the amount of \$150.00. If cancellation and rescheduling of the mediation is required under this section, then no Mediation Report shall be filed as no mediation has taken place.

If the Program Manager, or designee, determines that the plaintiff's representative present does not have full authority to settle, it shall be reported on the written roll that the

plaintiff's representative did not appear with full settlement authority as required by this Order. If a party appears via telephonic means, that should be notated by the Program Manager, or designee, or the mediator on the written roll. The written roll and execution of the Certificate of Authority document with the Program Manager, or designee, is not a mediation communication.

**THE RIGHT TO APPEAR THROUGH THE USE OF COMMUNICATION EQUIPMENT WILL BE TERMINATED AS TO ANY AND ALL PLAINTIFFS WHO FAIL TO SECURE PARTICIPATION BY A REPRESENTATIVE WITH FULL AUTHORITY TO NEGOTIATE FOR ANY MEDIATION THAT IS UTILIZING APPEARANCE VIA COMMUNICATION EQUIPMENT.**

The authorization by this Order for the plaintiff's representative to appear through the use of communication equipment is pursuant to rule 1.720(b), Florida Rules of Civil Procedure (court order may alter physical appearance requirement), and in recognition of the emergency situation created by the massive number of residential foreclosure cases being filed in this Circuit and the impracticality of requiring physical attendance of a plaintiff's representative at every mediation. Additional reasons for authorizing appearance through the use of communication equipment for mortgage foreclosure mediation include a number of protective factors that do not exist in other civil cases, namely the administration of the program by a program manager and required disclosure of information prior to mediation. The implementation of this Order shall not create any expectation that appearance through the use of communication equipment will be authorized in other civil cases.

If the plaintiff's representative attends mediation through the use of communication equipment, the person authorized by the plaintiff to sign a settlement agreement must be physically present at mediation. If the plaintiff's representative attends mediation through the use of communication equipment, the plaintiff's representative must remain on the

communication equipment at all times during the entire mediation session. If the plaintiff's representative attending via communication equipment does not participate in the mediation for the entire time of the mediation once he or she has been reached, the Program Manager may report the mediation as a no show mediation as to the plaintiff representative's attendance and the failure to fully participate shall be grounds to impose sanctions against the plaintiff including requiring the physical appearance of the plaintiff's representative at a second mediation, taxation of the costs of a second mediation to the plaintiff, and dismissal of the action.

Junior lienholders may appear at mediation by a representative with full settlement authority. If a junior lienholder is a governmental entity comprised of an elected body, such junior lienholder may appear at mediation by a representative who has authority to recommend settlement to the governing body. Counsel for any junior lienholder may also attend the mediation. The participants physically attending mediation may consult on the telephone during the mediation with other persons as long as such consultation does not violate the provisions of sections 44.401-406, Florida Statutes.

**14. *Failure to Appear at Mediation.*** If either the plaintiff's representative designated in the most recently filed Form A or the borrower fails to appear at a properly noticed mediation and the mediation does not occur, or when a mediation results in a no agreement, the Mediation Report shall notify the presiding judge regarding who appeared at mediation without making further comment as to the reasons for a no agreement. The Program Manager shall attach a copy of the written roll as described in paragraph 13 of this Order to the Mediation Report.

If the borrower fails to appear, or if the mediation results in a no agreement with all required parties present, and if the borrower has been lawfully served with a copy of the complaint, and if the time for filing a responsive pleading has passed, the matter may proceed to

a final hearing, summary judgment, or default final judgment in accordance with the rules of civil procedure without any further requirement to attend mediation.

If plaintiff's counsel or the plaintiff's representative fails to appear, the court may dismiss the action without prejudice, order plaintiff's counsel or the plaintiff's representative(s) to appear at mediation, or impose such other sanctions as the court deems appropriate including, but not limited to, attorney's fees and costs if the borrower is represented by an attorney. If the borrower or borrower's counsel of record fails to appear, the court may impose such other sanctions as the court deems appropriate, including, but not limited to, attorney's fees and costs.

**15. *Written Settlement Agreement; Mediation Report.*** If a partial or final agreement is reached, it shall be reduced to writing and signed by the parties and their counsel, if any. Pursuant to rule 1.730(b), Florida Rules of Civil Procedure, if a partial or full settlement agreement is reached, the mediator shall report the existence of the signed or transcribed agreement to the court without comment. If the parties do not reach an agreement as to any matter as a result of mediation, the mediator shall report the lack of an agreement to the court without comment or recommendation. In the case of a no agreement, the report shall advise the court who attended the mediation, and a copy of Form A or any amended Form A shall be attached to the report for the court to determine if at least one of the plaintiff's representative named in Form A appeared for mediation. The mediator's report to the court shall be in the format of Exhibit 6 attached. Each mediation report shall be completed and reported to the Program Manager, or designee, immediately after each mediation session. The Program Manager, or designee, shall then file each mediation report with the clerk of court.

**16. *Mediation Communications.*** All mediation communications occurring as a result of this Order, including information provided to the Program Manager that is not filed with the court shall be confidential and inadmissible in any subsequent legal proceeding pursuant to

Chapter 44, Florida Statutes, the Florida Rules of Civil Procedure, and the Florida Rules for Certified and Court-Appointed Mediators, unless otherwise provided for by law.

**17. Failure to Comply with Administrative Order.** In all residential foreclosure actions, if a notice for trial, motion for default final judgment, or motion for summary judgment is filed with the clerk of court, no action will be taken by the court to set a final hearing or enter a summary or default final judgment until the requirements of this Order have been met. In cases involving a homestead residence, the presiding judge shall require that copies of either: 1) the most recently filed Form A and the Mediation Report, or 2) the most recently filed Form A and the Notice of Borrower’s Non-Participation be sent to the presiding judge by the plaintiff or plaintiff’s counsel prior to setting a final hearing or delivered with the packet requesting a summary or default final judgment.

The failure of a party to fully comply with the provisions of this Order may result in the imposition of any sanctions available to the court, including dismissal of the cause of action without further notice.

**Summary of RMFM Program Timelines**

**18. RMFM Program Timelines.** The following timelines shall be followed:

<b>SUIT IS FILED</b>	FORM A FILED WITH COMPLAINT EXHIBIT 2, IN BOTH ENGLISH AND SPANISH, ATTACHED TO SUMMONS
<b>WITHIN 1 BUSINESS DAY AFTER SUIT IS FILED</b>	FORM A ELECTRONICALLY TRANSMITTED TO PROGRAM MANAGER BY PLAINTIFF’S COUNSEL
<b>WITHIN 48 HOURS AFTER SUIT IS FILED</b>	PLAINTIFF’S COUNSEL SHALL SEND BORROWER VIA U.S. MAIL, AT BORROWER’S LAST KNOWN MAILING ADDRESS: A COPY OF THE COMPLAINT, A COPY OF THE SUMMONS, AND A COPY OF EXHIBIT 2, IN BOTH ENGLISH AND SPANISH

<b>WITHIN 5 DAYS AFTER SUIT IS FILED OR CASE REFERRED TO RMFM BY COURT ORDER</b>	FORM A AND \$100.00 PAYMENT SUBMITTED TO PROGRAM MANAGER AND CONTACT INFORMATION AND PHONE NUMBER FOR ALL NOTE HOLDERS UPLOADED TO RMFM WEB-BASED PLATFORM BY PLAINTIFF'S COUNSEL (\$50.00 LATE FEE APPLIES IF NON-COMPLIANT)
<b>WITHIN 40 DAYS AFTER DATE ELIGIBLE*</b>	BORROWER MUST CONTACT PROGRAM MANAGER AND PAY \$250.00 MEDIATION FEE
<b>WITHIN 40 DAYS AFTER DATE ELIGIBLE*</b>	PROGRAM MANAGER WILL CONTACT PLAINTIFF'S COUNSEL TO OBTAIN LIST OF DOCUMENTS REQUESTED BY PLAINTIFF AND \$150.00 PAYMENT ONLY AFTER THE BORROWER HAS PAID THEIR PORTION OF THE MEDIATION FEE (\$250.00)
<b>WITHIN 55 DAYS AFTER DATE ELIGIBLE*</b>	BORROWER MUST SUBMIT LIST OF DOCUMENTS REQUESTED BY PLAINTIFF TO PROGRAM MANAGER
<b>WITHIN 55 DAYS AFTER DATE ELIGIBLE*</b>	MEDIATION SESSION MUST BE SCHEDULED
<b>AT LEAST 5 DAYS PRIOR TO MEDIATION</b>	ANY AMENDED FORM A DESIGNATION OF THE PLAINTIFF'S REPRESENTATIVE MUST BE FILED WITH CLERK
<b>1 DAY PRIOR TO MEDIATION</b>	ANY AMENDED FORM A DESIGNATION OF THE PLAINTIFF'S REPRESENTATIVE MUST BE TRANSMITTED TO PROGRAM MANAGER
<b>WITHIN 100 DAYS AFTER DATE ELIGIBLE*</b>	MEDIATION IS COMPLETED
<b>WITHIN 10 DAYS AFTER MEDIATION</b>	MEDIATION REPORT FILED WITH THE CLERK BY PROGRAM MANAGER

\* Date Eligible = plaintiff's counsel uploads Form A, uploads borrower contact information and \$100.00 payment is received by the Program Manager.

### ***19. Reinstatement Procedures.***

In the event of reinstatement to the RMFM Program, borrower is responsible for paying their share of the program fees (\$250.00) within five (5) days of the reinstatement date. After the borrower pays their share of the fees, the case timeline will be tolled by the number of additional

days until Program Manager receives both the \$150.00 payment and List of Borrower Documents crafted for each individual case from the plaintiff. After a case is reinstated, borrower has twenty (20) days to send Program Manager the List of Borrower Documents as requested by plaintiff and to schedule mediation. The borrower has fifty (50) days from the date of reinstatement to complete mediation. The Program Manager may file a Notice of Non-Participation if borrower fails to comply with these deadlines. When a case is reinstated by agreement of the parties, the Program Manager may file a Notice of Withdrawal of Non-Participation.

In the event of reinstatement, the following timelines shall be followed:

<b>SUMMARY OF RMFM TIMELINES FOR REINSTATED CASES</b>	
<b>WITHIN 5 DAYS AFTER REINSTATEMENT DATE*</b>	BORROWER SHALL PAY \$250.00 PROGRAM FEE
<b>WITHIN 5 DAYS AFTER REINSTATEMENT AND PAYMENT OF \$250.00 BY THE BORROWER</b>	PROGRAM MANAGER WILL CONTACT PLAINTIFF'S COUNSEL TO OBTAIN LIST OF DOCUMENTS REQUESTED BY PLAINTIFF AND \$150.00 PAYMENT ONLY AFTER THE BORROWER HAS PAID THEIR PORTION OF THE MEDIATION FEE (\$250.00)
<b>WITHIN 20 DAYS OF REINSTATEMENT DATE*</b>	BORROWER SHALL PROVIDE LIST OF DOCUMENTS REQUESTED BY PLAINTIFF TO PROGRAM MANAGER AND SCHEDULE DATE FOR MEDIATION WITH PROGRAM MANAGER
<b>WITHIN 50 DAYS OF REINSTATEMENT DATE*</b>	MEDIATION MUST OCCUR

\* Reinstatement Date = date of plaintiff consent to reinstate or receipt of reinstatement order by the Program Manager.

**RMFM Program Fees**

**20. RMFM Program Fees.** The fee structure for the RMFM Program is based on the assumption that a successful mediation can be accomplished with one mediation session.

Accordingly, pursuant to rule 1.720(k), Florida Rules of Civil Procedure, the reasonable program fees for the managed mediation, the mediator's fee, and administration of the managed mediation program, is a total of no more than \$500.00 payable as follows:

- 1) \$100.00 paid by plaintiff to the Program Manager within five (5) days after filing Form A with the clerk of court for program fees of the RMFM Program, including outreach to the borrower and case screening fees; and
- 2) \$250.00 paid by borrower to the Program Manager within the borrower contact time period for RMFM Program fees; and
- 3) \$150.00 paid by plaintiff to the Program Manager only after borrower has paid their share of program fees.

**The first \$100.00 payment by plaintiff must be sent to the Program Manager within five (5) days after filing Form A with the clerk of court. A photocopy of Form A must accompany payment, and the information on the payment must match the information recorded on Form A. Payment shall be in the form of check or money order made payable to the Orange County Bar Association, 880 North Orange Avenue, Orlando, Florida 32801. No personal checks will be accepted. The court case number must be recorded on the check.**

If the case is not resolved through the mediation process, the presiding judge may tax the program fees as a cost or apply it as a set off in the final judgment of foreclosure.

If mediation is scheduled and the borrower announces an intention not to participate further in the RMFM Program prior to the mediation session, or the borrower fails to provide the requested documents and/or schedule mediation within the timelines provided, or if the case settles and the Program Manager has notice of the settlement at least one (1) business day prior to the mediation session, the parties shall be entitled to a refund of the Program Fees allocated for the mediation session. In this case, each party will be refunded \$75.00 for mediator fees.

The total fees include the mediator's fees and costs and the cost to the Program Manager for administration of the managed mediation program which includes but is not limited to providing neutral meeting and caucus space, scheduling, telephone lines and instruments,

infrastructure to support a secure dedicated e-mail address or other secure system for information.

In order to cancel and/or reschedule mediation, all parties must consent to the change and notify the Program Manager. If a mediation session is cancelled the same day the mediation was scheduled to occur, the parties will not be refunded the portion of the fee set aside for payment to the mediator. If all parties agree to reschedule the mediation the same day mediation was scheduled to occur, the parties will not be refunded the mediation fee. If all parties agree to reschedule the mediation the same day mediation was scheduled to occur, the parties must pay an additional mediator fee, unless the reschedule is due to a medical emergency for a party. Mediators will be paid for same day cancellations by a party unless the cancellation is due to a medical emergency for a party. If mediation is cancelled prior to the date that mediation was scheduled to occur, both parties will receive a refund of \$75.00 for the mediator fee. In the event of an adjournment, all parties must agree to adjourn and pay the additional mediator fee but the parties will not have to pay any additional program fees.

If a case is settled prior to mediation, plaintiff's counsel must provide the Program Manager a copy of the dismissal order. Upon receipt of the dismissal order, Program Manager shall refund each party the amount of \$75.00 for the mediator fee.

### **Program Manager to Monitor Compliance and Satisfaction**

***21. Monitoring Compliance Concerning Certain Provisions of This Order, Satisfaction with RMFM Program, and Program Operation.*** The Program Manager shall be responsible for monitoring whether Form A has been filed in all residential foreclosure actions that commence after the effective date of this Order and whether the RMFM Program fees have been paid if the residence is a homestead residence. The Program Manager shall send

compliance reports to the Chief Judge or the Chief Judge's designee in the format requested by the Chief Judge. The reports shall be monthly or quarterly as determined by the Chief Judge.

The Program Manager may assist with enforcing compliance with this Order upon filing a written motion pursuant to rule 1.100(b), Florida Rules of Civil Procedure, stating with particularity the grounds therefore and the relief or order sought. Example orders are attached as Exhibit 7. The Program Manager shall also provide the Chief Judge with periodic reports as to whether plaintiffs and borrowers are satisfied with the RMFM Program. The Program Manager shall also provide the Chief Judge with reports containing statistical information about the status of cases in the RMFM Program and RMFM Program finances in the format and with the frequency requested by the Chief Judge. The reports shall be upon request of the Chief Judge or Chief Judge's designee.

The Program Manager shall also implement a reporting system to collect data on the number of cases referred to the Program and whether the cases settled, adjourned, or ended in no agreement. Further, the Program Manager shall track the percentage of cases referred to the Program that result in the Program Manager successfully contacting borrowers; the percentage of scheduled mediations failing to go forward because plaintiff's representative did not appear; the percentage of scheduled mediations failing to go forward because the borrower did not appear; and the percentage of mediations resulting in partial or complete agreements compared to those resulting in no agreement.

**22. Designation of Plaintiff Liaisons with RMFM Program.** Any plaintiff who has filed five (5) or more foreclosure actions in the Ninth Judicial Circuit while this Order is in effect shall appoint two RMFM Program liaisons, one of whom shall be a lawyer and the other a representative of the entity servicing the plaintiff's mortgages, if any, and, if none, a representative of the plaintiff. Plaintiff's counsel shall provide written notice of the name, phone

number (including extension), e-mail, and mailing address of both liaisons to the Chief Judge and the Program Manager within thirty (30) days after the effective date of this Order, and on the first Monday of each February thereafter while this Order is in effect.

The liaisons shall be informed of the requirements of this Order and shall be capable of answering questions concerning the administrative status of pending cases and the party's internal procedures relating to the processing of foreclosure cases, and be readily accessible to discuss administrative and logistical issues affecting the progress of the plaintiff's cases through the RMFM Program. Plaintiff's counsel shall promptly inform the Chief Judge and the Program Manager of any changes in designation of the liaisons and the contact information of the liaisons. The liaisons shall act as the Court's point of contact in the event the plaintiff fails to comply with this Order on multiple occasions and there is a need to communicate with the plaintiff concerning administrative matters of mutual interest.

#### **List of Participating Mediators and Rotation of Mediators**

**23. *List of Participating Mediators and Rotation of Mediators.*** The Program Manager shall post on its website the list of Florida Supreme Court certified mediators it will use to implement the RMFM Program and will state in writing the criteria, subject to approval by the Chief Judge, the Program will use in selecting mediators. The Program Manager shall also state in writing the procedure, subject to the approval by the Chief Judge, the program will use to rotate the appointment of mediators. The RMFM Program shall require the use of mediators who have been trained to mediate mortgage foreclosure cases, reflecting the diversity of the community in which it operates. Assignment of mediators shall be on a rotation basis that fairly spreads work throughout the pool of mediators working in the RMFM Program, unless the parties mutually agree, in writing, on a specific mediator or the case requires a particular skill on the part of the mediator.

In an effort to maintain the performance and quality of the RMFM Program, it shall be in the Chief Judge's discretion to remove any mediator from rotation, in consultation with the Program Manager, should circumstances arise which warrant the removal of the mediator from the RMFM Program list of mediators.

**Program Manager**

**24. Program Manager.** The Orange County Bar Association, an independent, nonpartisan, nonprofit organization is hereby retained as Program Manager of the Orange County RMFM Program. The Orange County Bar Association has ably demonstrated its ability to assist the Court with managing the large number of residential mortgage foreclosure actions that have been filed in Orange County.

**25.** Administrative Order No. 2012-06 is vacated and set aside and has been incorporated and/or amended herein.

**DONE AND ORDERED** at Orlando, Florida, this 3<sup>rd</sup> day of November, 2015.

\_\_\_\_\_/s/\_\_\_\_\_  
Frederick J. Lauten  
Chief Judge

Copies to:

Clerk of Courts, Orange County  
Clerk of Courts, Osceola County  
General E-Mail Distribution List  
<http://www.ninthcircuit.org>

*Please complete and electronically transmit a copy to the Program Manager. Instructions for sending are available at <http://www.orangecountybar.org>. Please file original with the Clerk of Court. Additionally, a photocopy of the completed form must be attached to program fees payment.*

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY, FLORIDA

[Name of Plaintiff]  
Plaintiff,

Case No.:

vs.

[Names of Defendant(s)]  
Defendant(s)

**Form "A"**

(Certifications Pursuant to Ninth Judicial Circuit Administrative Order 2012-06-01 (as may be amended))

**Certificate of Plaintiff's Counsel Regarding Origination of Note and Mortgage**

THE UNDERSIGNED, as counsel of record for plaintiff and as an officer of the court, certifies the origination of the note and mortgage sued upon in this action \_\_\_WAS or \_\_\_WAS NOT subject to the provisions of the Federal Truth in Lending Act, Regulation Z.

**Certificate of Plaintiff's Counsel Regarding Status of Residential Property**

THE UNDERSIGNED, as counsel of record for plaintiff and as an officer of the court, certifies the property that is the subject matter of this lawsuit \_\_\_IS or \_\_\_IS NOT a homestead residence. A "homestead residence" means a residential property for which a homestead real estate tax exemption was granted according to the certified rolls of the last assessment by the county property appraiser prior to the filing of the suit to foreclose the mortgage.

*If the residential property is a homestead residence, please complete the following:*

**Certificate of Plaintiff's Counsel Regarding Plaintiff's Representative at Mediation**

THE UNDERSIGNED, as counsel of record for plaintiff and as an officer of the court, certifies the following is a list of the persons, one of whom will represent the plaintiff in mediation with full authority to modify the existing loan and mortgage and to settle the foreclosure case, and with authority to sign a settlement agreement on behalf of the plaintiff (list name, address, phone number, facsimile number, and email address):

Plaintiff's counsel understands the mediator or the RMFM Program Manager may report to the court who appears at mediation and, if at least one of plaintiff's representatives named above does not appear at mediation, sanctions may be imposed by the court for failure to appear. As required by the Administrative Order, plaintiff's counsel will transmit electronically to the RMFM Program Manager the case number of this action, the contact information regarding the parties, and a copy of this Form A.

Date: \_\_\_\_\_

\_\_\_\_\_  
*(Signature of Plaintiff's Counsel)*

Printed name:

Address:

Phone number:

Fla. Bar No.



**EXHIBIT 2**  
**NOTICE OF RMFM PROGRAM TO BE SERVED WITH SUMMONS**

IN THE CIRCUIT COURT FOR THE NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY, FLORIDA

**A NOTICE FROM THE COURT REGARDING LAWSUITS TO FORECLOSE  
MORTGAGES ON HOMES**

If you are being sued to foreclose the mortgage on your primary home and your home has a homestead exemption and if you are the person who borrowed the money for the mortgage, you have a right to go to “mediation.” At “mediation,” you will meet with a Florida Supreme Court certified mediator appointed by the court and also a representative of the company asking to foreclose your mortgage to see if you and the company suing you can work out an agreement to stop the foreclosure. **The mediator will not be allowed to give you legal advice or to give you an opinion about the lawsuit.** The mediator’s job is to remain neutral and not take sides, but to give both sides a chance to talk to each other to see if an agreement can be reached to stop the foreclosure. If you and the company suing you come to an agreement, a settlement agreement will be written up and signed by you and the company suing you. With some limited exceptions, what each side says at the mediation is confidential and the judge will not know what was said at mediation.

To participate in mediation, you must contact the Program Manager by calling 407-515-4330 between 9:00 a.m. and 5:00 p.m., Monday through Friday. **Please call immediately if you may be interested in mediation to get more information about the program as there is a deadline to participate that expires approximately 40 days after the complaint is filed on your case.**

Representatives from the Orange County Bar Association Foreclosure Mediation Program will also try to contact you by phone and by mail. The homeowner’s share of the mediation fee will be \$250.00 to participate in this mediation program and attend a mediation session. To participate in mediation, you will be asked later to provide financial information to the Program Manager so that information can be sent on your behalf to your lender. *You may talk to someone with the Orange County Bar Association about your mediation options and ask questions about the mediation process at no charge.*

The Program Manager will explain more about the mediation program to you when you call.

**AS STATED IN THE SUMMONS SERVED ON YOU, YOU OR YOUR LAWYER MUST FILE WITH THE COURT A WRITTEN RESPONSE TO THE COMPLAINT TO FORECLOSE THE MORTGAGE WITHIN 20 DAYS AFTER YOU WERE SERVED. YOU OR YOUR LAWYER MUST ALSO SEND A COPY OF YOUR WRITTEN RESPONSE TO THE PLAINTIFF’S ATTORNEY. YOU MUST TIMELY FILE A WRITTEN RESPONSE TO THE COMPLAINT EVEN IF YOU DECIDE TO PARTICIPATE IN MEDIATION. IF YOU FAIL TO TIMELY RESPOND TO THE COMPLAINT, THE FORECLOSURE WILL PROCEED AND A DEFAULT JUDGMENT MAY BE ENTERED AGAINST YOU. YOU WILL NOT BE ABLE TO REQUEST MEDIATION AT ANY POINT IF YOU FAIL TO RESPOND TO THE COMPLAINT.**

\_\_\_\_\_  
/s/ Frederick J. Lauten  
Chief Judge, Ninth Judicial Circuit

**EXHIBITO 2**  
**AVISO DE PROGRAMA RMFM PARA SER ENTREGADO CON SU ORDEN DE**  
**COMPARECENIA**

EN LA CORTE CIRCUITO PARA EL NOVENO CIRCUITO JUDICIAL  
EN Y PARA DEL CONDADO DE ORANGE DE LA FLORIDA

**UN AVISO DE LA CORTE SOBRE DEMANDAS DE EJECUCIÓN HIPOTECARIAS DE**  
**CASAS**

Si usted esta siendo demandado y le van ha efectuar una ejecución hipotecaria en su casa de residencia; es la persona que solicito el préstamo para la hipoteca de su casa y tiene una excepción de casa --- tiene el derecho de solicitar una “mediación”. En una “mediación,” usted se reunirá con un persona certificada por la Corte Suprema de la Florida y asignado por la corte. Esta persona tambien representa a la compañía que solicitó la ejecución de su hipoteca para que usted y el demandante puedan llegar a un acuerdo y detener la ejecución hipotecaria. **El mediador no estará supuesto a dar asistencia legal o dar opinión acerca de la demanda.** El trabajo del mediador es permanecer neutral y no estar de lado de ninguna de las dos partes, pero si, de darle a las dos partes la oportunidad de conversar entre ellos y de llegar a un acuerdo que posiblemente pueda detener la ejecución hipotecaria. Si ambas partes llegan a un acuerdo, este debe ser por escrito y firmando por la compañía que lo esta demandando y por el demandado. Con algunos limites de excepciones, lo que cada parte diga en la mediación es confidencial y el Juez no sabrá que se dijo en la mediación.

Para participar en una mediación, usted necesitará contactar al Gerente del Programa al 407-515-4330 entre las 9:00 a.m. y 5:00 p.m., de lunes a viernes. **Por favor llamar inmediatamente si usted esta interesado en participar en una mediación y desea más información del programa. Usted solo tendrá 40 días después de que la demanda fue registrada en su caso para elegir una mediación.**

Representantes de el Programa de Mediacion de Ejecuciones Hipotecarias de la Asociación del Colegio de Abogados del Condado de Orange tambien tratarán de contactarlo vía teléfono o correo. El dueño de la propiedad será responsable de pagar un cargo de \$250.00 por la mediación, para participar en este programa y atender la sesión. Para participar en mediación, usted tendrá que proveer información financiera al Gerente del Programa, para que esta sea enviada al prestamista. *Usted podra hablar con alguien de la Asociación del Colegio de Abogados del Condado de Orange sobre las opciones de su mediación y preguntarle del proceso sin costo adicional.*

**EL GERENTE DEL PROGRAMA LE EXPLICARÁ MAS DEL PROGRAMA DE MEDIACIÓN CUANDO USTED LLAME. COMO ESTA DICHO EN SU DEMANDA, USTED O SU ABOGADO TIENEN 20 DÍAS PARA ARCHIVAR EN LA CORTE UNA RESPUESTA A LA DEMANDA DE LA EJECUCIÓN HIPOTECARIA REGISTRADO CONTRA USTED. USTED O SU ABOGADO NECESITARÁN ENVIARLE UNA COPIA DE SU RESPUESTA AL ABOGADO DEL DEMANDANTE. USTED TENDRÁ QUE ARCHIVAR UNA RESPUESTA A LA DENUNCIA DENTRO DE LA FECHA DE VENCIMIENTO SI DESEA PARTICIPAR EN MEDIACIÓN. SI USTED FALLA EN RESPONDER A TIEMPO A LA DENUNCIA UN FALLO DE INCUMPLIMIENTO PUEDE SER REGISTRADO CONTRA USTED. NO PODRÁ SOLICITAR UNA MEDIACIÓN DE NINGUNA MANERA AL NO HABER RESPONDIDO A LA DEMANDA A TIEMPO.**

\_\_\_\_\_  
/s/ Frederick J. Lauten  
Juez Principal, Noveno Circuito Judicial

**EXHIBIT 3  
BORROWER'S REQUEST TO PARTICIPATE IN RMFM PROGRAM**

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY, FLORIDA

Case No(s):

Plaintiff(s),

vs.

Defendant(s).

\_\_\_\_\_

**BORROWER'S REQUEST TO PARTICIPATE IN RMFM PROGRAM**

\_\_\_\_\_, (*printed name*), as the borrower on the mortgage sued upon in this case, hereby requests that this case be referred by the court to mediation using the RMFM Program. The undersigned states, under penalty of perjury, that:

***Please check one of the following options:***

he or she is currently living on the property as a primary residence and the property has a homestead tax exemption.

the property is non-homestead.

Signed on \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(*Signature*)

\_\_\_\_\_  
(*Printed Name*)

\_\_\_\_\_  
(*Current Address and Phone Number*)

\_\_\_\_\_  
(*E-Mail Address*)

*[Certificate of Service on the parties]*

**EXHIBIT 4**  
**NOTICE OF BORROWER'S NONPARTICIPATION**

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY, FLORIDA

Case No(s).:

Plaintiff(s),

vs.

Defendant(s).

---

**NOTICE OF BORROWER NONPARTICIPATION  
WITH RMFM PROGRAM**

The Orange County Bar Association, Program Manager for the Orange County Residential Mortgage Foreclosure Mediation Program, hereby gives notice to the court that this case will not be participating and/or is removed from the RMFM Program because:

- At least one eligible Borrower has advised that [he/she] does not wish to participate in mediation for this case;
- At least one Borrower has failed or refuses to comply with the Program requirements;
- The Borrower has not paid the Program fee;
- The RMFM Program has been unable to contact all Borrowers;
- The Borrower is deceased and/or the case involves an estate;
- The property is vacant and mail is undeliverable;
- The case has a bankruptcy stay in place.

Signed on \_\_\_\_\_, 20\_\_.

*[Name of Program Manager]*

BY: \_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Printed Name)*

*[Certificate of Service on the parties]*

**EXHIBIT 5**  
**PLAINTIFF'S NOTICE OF ATTENDING MEDIATION**  
**THROUGH THE USE OF COMMUNICATION EQUIPMENT**

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY, FLORIDA

Case No(s).:

Plaintiff(s),

vs.

Defendant(s).

---

**NOTICE THAT PLAINTIFF'S REPRESENTATIVE WILL APPEAR**  
**THROUGH THE USE OF COMMUNICATION EQUIPMENT AND**  
**DESIGNATION OF AUTHORITY TO SIGN SETTLEMENT AGREEMENT**

Plaintiff gives notice of exercising the option to allow plaintiff's representative designated in Form A filed in this case to attend mediation through the use of communication equipment, and designates *[name of person]* as the person who will be physically present at mediation with full authority on behalf of plaintiff to sign any settlement agreement reached at mediation. The Plaintiff's full authority to settle shall include the ability to negotiate and agree to both retention and disposition options which shall include but shall not be limited to: authority to approve loan modifications; consent to Borrower's refinancing, reducing principal, short sales, deed-in lieu of foreclosure, consent to judgment and waiver of deficiencies and consent to other workout options. On the date of the mediation, plaintiff's representative can be reached by calling the following telephone number: *[telephone number, including area code and extension]*.

Signed on \_\_\_\_\_, 20\_\_\_\_.

*[Name of Plaintiff]*

\_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Printed Name)*

*[Certificate of Service by Plaintiff's Counsel]*

**EXHIBIT 6  
MEDIATION REPORT**

**IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY, FLORIDA**

\_\_\_\_\_ Case Number: \_\_\_\_\_  
Plaintiff/Lender,  
  
vs.  
\_\_\_\_\_  
Defendant(s),

**MEDIATOR REPORT**

---

Pursuant to the Court's Order, a Mediation Conference was conducted by Florida Supreme Court Certified Circuit Court Mediator \_\_\_\_\_ on \_\_\_\_\_ (day), \_\_\_\_\_ (date).

The following were physically present at the Mediation Conference (please print clearly or type):

\_\_\_\_\_  
Plaintiff  
\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Plaintiff's Attorney  
\_\_\_\_\_  
Defendant's Attorney

Others physically present: \_\_\_\_\_  
\_\_\_\_\_

Plaintiff's Representative present by electronic equipment: \_\_\_\_\_

The result of the Mediation Conference is as follows (Mediator selects only one):

\_\_\_\_\_ The parties reached an agreement.  PARTIAL  FULL  
The agreement was  reduced to writing and signed by the parties  
 transcribed  
\_\_\_\_\_ There was no agreement.

\_\_\_\_\_  Plaintiff  Defendant  Both Plaintiff and Defendant failed to appear at the scheduled mediation session.

\_\_\_\_\_ The mediation was ADJOURNED to \_\_\_\_\_ (Day, Date and Time)

\_\_\_\_\_  
CERTIFIED CIRCUIT MEDIATOR

\_\_\_\_\_  
DATE

For Residential Mortgage Foreclosure Mediation Programs ONLY:

A copy of the most recently filed Form A is attached to this report for the court's use.

[Certificate of Service]

**EXHIBIT 7**  
**ORDERS FOR REFERRALS, COMPLIANCE,**  
**AND ENFORCEMENT**

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY, FLORIDA

Case No(s):

Plaintiff(s),

vs.

Defendant(s).

---

**ORDER TO SHOW CAUSE**

(Plaintiff's Failure to Comply with Administrative Order 2012-06-01 (as may be amended))

It appearing to the Court that Plaintiff has failed to comply with the requirements of Administrative Order 2012-06-01 (as may be amended) in regards to the following (*as marked*):

**Form A**

\_\_\_ Plaintiff failed to file Form A.

\_\_\_ Plaintiff failed to submit Form A to the Program Manager.

**Payment of RMFM Program Fees**

\_\_\_ Plaintiff failed to pay the \$100.00 screening fee of the RMFM Program fees payable and due within five (5) days after suit is filed.

\_\_\_ Plaintiff failed to pay the \$150.00 mediation fee of the RMFM Program fees payable and due after the Borrower opts in to the RMFM Program.

\_\_\_ Plaintiff failed to pay the \$50.00 penalty fee for noncompliance with the RMFM deadlines.

**Electronic Transmittal of Case Number and Borrower Contact Information**

\_\_\_ Plaintiff failed to electronically submit the court case number and contact information for all note holders to the Program Manager using the approved web-based information platform.

\_\_\_ Plaintiff failed to electronically submit phone contact information for all note holders to the Program Manager using the approved web-based information platform.

### **Attendance at Mediation**

\_\_\_ Plaintiff's counsel failed to attend mediation.

\_\_\_ Plaintiff's representative designated in the most recent Form A filed in the court file failed to attend mediation.

\_\_\_ Plaintiff's agent with full authority to sign a settlement agreement failed to attend mediation.

\_\_\_ Plaintiff's representative failed to attend by telephone at all times during the mediation session.

### **Borrower's Disclosure for Mediation**

\_\_\_ Plaintiff has failed to notify Program Manager of the list of financial documents required from the Borrower before mediation.

### **Scheduling Mediation**

\_\_\_ Program Manager does not have a contact available with legal counsel for Plaintiff to schedule mediation.

IT IS ORDERED that Plaintiff shall appear before the court at the *[designation of courthouse/courtroom]* on *[date]* at *[time]* to show cause why sanctions for noncompliance with Administrative Order 2012-06-01 (as may be amended) should not be imposed. Plaintiff is cautioned that failure to appear at the show cause hearing may result in the case being dismissed and the imposition of other appropriate sanctions.

Signed on *[date]*

*[signature block for judge]*

*[Certificate of Service]*

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY, FLORIDA

Case No(s):

Plaintiff(s),

vs.

Defendant(s).

---

**ORDER AFTER SHOW CAUSE HEARING**

(Plaintiff's Failure to Comply with Administrative Order 2012-06-01 (as may be amended))

The Court having determined that Plaintiff has failed to comply with the requirements of Administrative Order 2012-06-01 (as may be amended), it is ORDERED and ADJUDGED (*as marked*):

**Form A**

\_\_\_ Within 5 days from the date of this Order, Plaintiff shall file and electronically submit Form A to the Program Manager using the approved web-based information platform.

**Payment of RMFM Program Fees**

\_\_\_ Within 5 days from the date of this Order, Plaintiff shall pay \$\_\_\_\_\_ of the RMFM Program fees to the Program Manager.

**Failure to Electronically Transmit Case Number, All Borrower's Contact Information or Phone Numbers**

\_\_\_ Within 5 days from the date of this Order, Plaintiff shall electronically submit court case number, address and phone contact information for all note holders to the Program Manager using the approved web-based platform.

**Failure to Notify Program Manager of the List of Financial Documents Required from the Borrower Before Mediation**

\_\_\_ Within 5 days from the date of this Order, Plaintiff shall submit the list of required financials to the Program Manager.

**Attendance at Mediation**

\_\_\_ Plaintiff's counsel shall attend the next scheduled mediation in this case and Plaintiff shall pay an additional mediator fee of \$150.00, if requested by the Program Manager.

\_\_\_\_\_ (Name), as plaintiff's representative designated in the most recent Form A filed in the court file, shall physically attend the next scheduled mediation in this case and Plaintiff shall pay an additional mediator fee of \$150.00, if requested by the Program Manager.

\_\_\_\_\_ (Name), as plaintiff's agent with full authority to sign a settlement agreement shall attend the next scheduled mediation in this case and Plaintiff shall pay an additional mediator fee of \$150.00, if requested by the Program Manager.

**Dismissal**

\_\_\_ This case is dismissed without prejudice.

**Additional Sanctions**

\_\_\_ The Court determines \_\_\_\_\_ is entitled to an award of attorney's fees and cost, the amount of which shall be determined at a subsequent hearing.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signed on [date]

[signature block for judge]

[Certificate of Service]

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY, FLORIDA

Case No(s):

Plaintiff(s),

vs.

Defendant(s).

---

**ORDER REFERRING CASE TO RMFM PROGRAM**

It appearing to the Court that the residence which is the subject of this action to foreclose a mortgage is a  homestead  non-homestead residence (*please check one*) and that Defendant \_\_\_\_\_ (Borrower) has requested that the case be referred to mediation, it is ORDERED:

*PLEASE CHECK ONE OF THE FOLLOWING OPTIONS:*

**NEW CASE REFERRAL TO RMFM:** The case is **referred to the RMFM Program** for mediation, and the plaintiff and borrower shall comply with Administrative Order 2012-06-01 (as may be amended). **Within 5 days of the date of this Order**, plaintiff's counsel shall upload Form A and all borrower contact information including property address and phone number for all note holders to the web-enabled program platform, and pay the \$100.00 RMFM Program fee to the Program Manager. If plaintiff fails to comply with these requirements within the 5 day deadline, the plaintiff will incur a \$50.00 penalty fee, payable to the Program Manager.

**CASE REINSTATED TO RMFM:** The case is **reinstated in the RMFM Program** for mediation, and the plaintiff and borrower shall comply with Administrative Order 2012-06-01 (as may be amended). **Within 5 days of receipt of this Order by the Program Manager**, the borrower shall pay the \$250.00 program fee to the Program Manager.

The plaintiff and borrower are to cooperate with the Program Manager and must attend any mediation scheduled by the Program Manager. The Program Manager contact phone number is **(407) 515-4330**.

The plaintiff is advised and cautioned that failure to comply in a timely manner with the requirements of this Order will result in dismissal of the cause of action without further order of the court.

Signed on *[date]*

*[signature block for judge]*

*[Certificate of Service]*

**NOTICE OF MEDIATION**

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY, FLORIDA

Case No(s):

Plaintiff(s),

vs.

Defendant(s).

---

**NOTICE OF MEDIATION**

Pursuant to Administrative Order 2012-06-01 (as may be amended), the Program Manager hereby sets this action for mediation on \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_, **800 North Orange Avenue, Orlando, Florida, 32801.**

**Attendance.**

Each of the following must be physically present at the mediation:

- (a) the borrower;
- (b) the borrower's counsel of record, if any;
- (c) the plaintiff's lawyer; and
- (d) the plaintiff's representative with full authority to settle as designated in the most recently filed Form A (plaintiff's representative may appear through the use of communication equipment if proper notice has been filed).

FAILURE OF ANY OF THESE PARTIES TO APPEAR MAY RESULT IN A DISMISSAL OF THE ACTION WITHOUT PREJUDICE, THE MATTER MAY PROCEED TO A FINAL HEARING, SUMMARY JUDGMENT OR DEFAULT JUDGMENT, OR ANY OTHER SANCTIONS AS THE COURT DEEMS APPROPRIATE.

Be prepared to present any information or papers that will support your side of the case.

Plaintiff shall bring any and all documents and materials necessary for an effective mediation.

The mediation session is scheduled for up to two (2) hours.

If you need a foreign language interpreter to fully participate in your hearing, it is your responsibility to bring your own interpreter.

**Re-Scheduling.**

In order to cancel and/or reschedule mediation, all parties must consent to the change and notify the Program Manager.

Until you have received and amended Notice from the Program Manager either cancelling the scheduled mediation session or providing a reset date and time, no new date will be considered set.

No request to cancel, reset or notice of settlement received by the Program Manager less than one (1) business day prior to a scheduled mediation session shall result in any refund of any mediation fees.

**Results of Mediation.**

The Program Manager shall report to the Court whether an agreement was reached without comment or recommendation.

If there are any questions about the RMFM Program mediation process, please contact the Program Manager at (407) 515-4330.

Signed on \_\_\_\_\_, 20\_\_.

*[Name of Program Manager]*

BY: \_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Printed Name)*

*[Certificate of Service on the parties]*

**If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the ADA Coordinator, Human Resources, Orange County Courthouse, 425 N. Orange Avenue, Suite 510, Orlando, Florida, (407) 836-2303, at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.**

**EXHIBIT 8**  
**CERTIFICATE OF SETTLEMENT AUTHORITY**

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY, FLORIDA

Case No(s).:

Plaintiff(s),

vs.

Defendant(s).

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**CERTIFICATE OF SETTLEMENT AUTHORITY**

THE UNDERSIGNED COUNSEL, as counsel of record in this case and as an officer of the court, pursuant to Administrative Order 2012-06-01 (as may be amended), does hereby certify as follows:

1. The name of the Lender representative is: \_\_\_\_\_.
2. The job title of the Lender representative is: \_\_\_\_\_.
3. The Lender representative is appearing for this mediation:  
\_\_\_\_\_ by personal appearance  
\_\_\_\_\_ by telephone at \_\_\_\_\_ (number)
4. The undersigned attorney for plaintiff has personally spoken today with the above designated representative and has confirmed that the lender representative has full settlement authority to negotiate a settlement with the borrower(s) without further consultation.
5. The undersigned attorney for plaintiff has personally spoken today with the above designated representative and has confirmed that the lender representative has fully reviewed all documents provided by Program Manager for the above-styled case to the Plaintiff's legal counsel.

Signature: \_\_\_\_\_

Attorney for Plaintiff (Print Name): \_\_\_\_\_

Florida Bar No.: \_\_\_\_\_

Address: \_\_\_\_\_

Phone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_